

REMARKS

Applicant has considered all points made by the Examiner in the Office Action and has responded to same in order to ensure compliance with the applicable rules.

1. Requirement for Restriction.

Pursuant to the requirement for restriction, the Applicant elects for further examination of the invention construed by the Examiner to be set forth in claims 1 through 10 and 12 through 20 in the application.

2. Claim Objections.

Claim 1 was objected to because of informalities. Applicant has amended claim 1 to correct the noted informalities.

3. Claim Rejection - Anticipation.

Anticipation is a factual determination. In order to establish anticipation, a single prior art reference must disclose each and every element of the claims in issue, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458, 221 U.S.P.Q. 481 (Fed. Cir. 1984); *In re Schaumann*, 572 F.2d 312, 197 U.S.P.Q. 5 (C.C.P.A. 1978) (anticipation is measured with respect to the terms of the claims in issue). When the claimed invention is not identically disclosed in a reference, and instead requires picking and choosing among a number of different options disclosed by the reference, the reference does not anticipate. *Akzo N.V. v. U.S. Int'l Trade Comm'n*, 808 F.2d 1471, 1480, 1 U.S.P.Q.2d 1241, 1245-46 (Fed. Cir. 1986), *cert. denied*, 482 U.S. 909, 107 S.Ct. 2490 (1987).

a. Claims 1 – 9.

Claims 1 – 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Penna et al (U.S. Patent No. 3,160,251). Applicant respectfully traverses these rejections.

Applicants' claim 1 (as amended) and claim 5 (as amended) contain a head that is perpendicular to, extending above, and originating at the coil course. Penna, Fig. 3, illustrates that the head (referred to as 'shank' in Penna) intersects the plane of the base (referred to as 'head' in Penna) and is incorporated into the base. The Penna reference would not function if the head

extended above the base as in Applicants' invention. Because this element is recited in claim 1 (as amended) and claim 5 (as amended), the Penna reference cannot anticipate the present invention.

b. Claims 5, 9, and 10.

Claims 5, 9, and 10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bolduc et al (U.S. Patent No. 6,296,656 B1). Applicant respectfully traverses each of these rejections.

Applicants' claim 5 (as amended) and claims 9 and 10 each contain a head extending above the base at the center of curvature. The Bolduc reference discloses no head. Because this element is recited in claim 5 (as amended) and claims 9 and 10 depend from claim 5, the Buldoc reference cannot anticipate the present invention.

c. Claims 12 – 20.

Claims 12 – 20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bono Jr. et al (U.S. Patent No. 6,533,289 B2). Applicant respectfully traverses each of these rejections.

The Bono reference discloses a clip with two distinct bases on either side of the head that extend away from the head in opposing directions. Applicants' claim 12 (as amended) contains a clip that has a head that is perpendicular to, and extending above, the center of curvature of the circular base. Because this element is missing from the Bono reference, the Bono reference cannot anticipate the present invention.

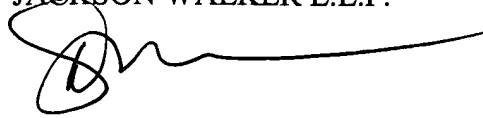
d. Anticipation - Conclusion.

In light of the above, Applicants respectfully submit that claim 1 (as amended), claim 5 (as amended), and claim 12 (as amended) are not anticipated by the cited references. Because claims 2 – 4 depend from claim 1 (as amended), claims 6 – 10 depend from claim 5 (as amended), and claims 13 – 20 depend from claim 12 (as amended), these claims are also not anticipated by the cited references. Accordingly, Applicants respectfully request the Examiner to withdraw the rejection under 35 U.S.C. § 102(b).

CONCLUSION

At this time and in view of Applicant's amendments and arguments set forth above, it is respectfully submitted that all pending claims are allowable, and a Notice of Allowance is respectfully requested.

Respectfully submitted,
JACKSON WALKER L.L.P.

A handwritten signature in black ink, appearing to be 'D. Chapman', with a long horizontal flourish extending to the right.

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